

**REPORT OF THE AUDIT OF THE  
FORMER WHITLEY COUNTY  
SHERIFF'S SETTLEMENT - 2008 TAXES**

**For The Period  
July 26, 2008 Through April 15, 2009**



**CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS  
[www.auditor.ky.gov](http://www.auditor.ky.gov)**

**209 ST. CLAIR STREET  
FRANKFORT, KY 40601-1817  
TELEPHONE 502.564.5841  
FACSIMILE 502.564.2912**



**EXECUTIVE SUMMARY**

**AUDIT EXAMINATION OF THE  
FORMER WHITLEY COUNTY  
SHERIFF'S SETTLEMENT - 2008 TAXES**

**For The Period  
July 26, 2008 Through April 15, 2009**

The Auditor of Public Accounts was engaged to complete the audit of the Sheriff's Settlement - 2008 Taxes for the former Whitley County Sheriff for the period July 26, 2008 through April 15, 2009. As a result of this engagement, we have issued a disclaimer of opinion on the Whitley County Sheriff's Settlement - 2008 Taxes.

**Report Comments:**

- 2008-01 The Former Sheriff Should Not Have Deposited Fee Money In His Tax Account
- 2008-02 The Former Sheriff Did Not Accurately Account For All Franchise Tax Collections And Distribute All Franchise Taxes By The Tenth Of The Month Following Collections
- 2008-03 The Former Sheriff's Office Did Not Properly Account For All Paid Tax Bills
- 2008-04 The Former Sheriff Did Not Properly Document Approval Of Waiver Of Penalties And Fees As Required By Statute And Department Of Revenue Guidelines And Granted Discounts On Tax Bills Paid After The Discount Period Had Ended
- 2008-05 The Former Sheriff Did Not Reconcile Deposits To The Daily Collection Sheet Or A Daily Receipts Journal
- 2008-06 The Former Sheriff's Office Lacked Adequate Segregation Of Duties Over Accounting Functions
- 2008-07 The Former Sheriff Did Not Distribute The Proper Amounts Of Interest Earned On Tax Collections To The School Districts And His Fee Account
- 2008-08 The Former Sheriff Should Not Have Loaned Money To The Fee Account From The Tax Account
- 2008-09 The Former Sheriff Did Not Accurately Account For The Ten Percent (10%) Sheriff's Add-On Fees
- 2008-10 The Former Sheriff Should Not Have Collected Taxes Before Signing The Official Receipt
- 2008-11 The Former Sheriff Should Settle 2008 Taxes

**Deposits:**

The former Sheriff's deposits were insured and collateralized by bank securities or bonds.



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CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

To the People of Kentucky

Honorable Steven L. Beshear, Governor

Lori Hudson Flanery, Secretary

Finance and Administration Cabinet

Honorable Pat White, Jr., Whitley County Judge/Executive

Honorable Lawrence Hodge, Former Whitley County Sheriff

Honorable Colan Harrell, Whitley County Sheriff

Members of the Whitley County Fiscal Court

Independent Auditor's Report

We were engaged to audit the former Whitley County Sheriff's Settlement - 2008 Taxes for the period July 26, 2008 through April 15, 2009. This tax settlement is the responsibility of the former Whitley County Sheriff.

As further explained in the accompanying findings and recommendations, the former Whitley County Sheriff did not maintain adequate accounting records of tax revenues and tax distributions for the 2008 tax year. The former Sheriff's financial records do not permit the application of other auditing procedures to tax revenues and tax distributions. Additionally, the former Sheriff did not provide us with a management representation letter and the County Attorney did not provide us with a legal representation letter.

Since we were unable to obtain management and legal representation letters as required by auditing standards, the former Whitley County Sheriff did not maintain adequate accounting records, and we were unable to apply other auditing procedures to satisfy ourselves as to the validity of tax revenues and tax distributions, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the former Sheriff's Tax Settlement - 2008 Taxes for the period July 26, 2008 through April 15, 2009.

In accordance with Government Auditing Standards, we have also issued our report dated March 25, 2011, on our consideration of the former Sheriff's internal control over financial reporting and on our tests of compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



To the People of Kentucky

Honorable Steven L. Beshear, Governor

Lori Hudson Flanery, Secretary

Finance and Administration Cabinet

Honorable Pat White, Jr., Whitley County Judge/Executive

Honorable Lawrence Hodge, Former Whitley County Sheriff

Honorable Colan Harrell, Whitley County Sheriff

Members of the Whitley County Fiscal Court

Based on the results of our audit, we present the accompanying comments and recommendations, included herein, which discusses the following report comments:

- 2008-01 The Former Sheriff Should Not Have Deposited Fee Money In His Tax Account
- 2008-02 The Former Sheriff Did Not Accurately Account For All Franchise Tax Collections And Distribute All Franchise Taxes By The Tenth Of The Month Following Collections
- 2008-03 The Former Sheriff's Office Did Not Properly Account For All Paid Tax Bills
- 2008-04 The Former Sheriff Did Not Properly Document Approval Of Waiver Of Penalties And Fees As Required By Statute And Department Of Revenue Guidelines And Granted Discounts On Tax Bills Paid After The Discount Period Had Ended
- 2008-05 The Former Sheriff Did Not Reconcile Deposits To The Daily Collection Sheet Or A Daily Receipts Journal
- 2008-06 The Former Sheriff's Office Lacked Adequate Segregation Of Duties Over Accounting Functions
- 2008-07 The Former Sheriff Did Not Distribute The Proper Amounts Of Interest Earned On Tax Collections To The School Districts And His Fee Account
- 2008-08 The Former Sheriff Should Not Have Loaned Money To The Fee Account From The Tax Account
- 2008-09 The Former Sheriff Did Not Accurately Account For The Ten Percent (10%) Sheriff's Add-On Fees
- 2008-10 The Former Sheriff Should Not Have Collected Taxes Before Signing The Official Receipt
- 2008-11 The Former Sheriff Should Settle 2008 Taxes

Respectfully submitted,



Crit Luallen

Auditor of Public Accounts

March 25, 2011

WHITLEY COUNTY  
LAWRENCE HODGE, FORMER SHERIFF  
SHERIFF'S SETTLEMENT - 2008 TAXES

For The Period July 26, 2008 Through April 15, 2009

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Real Estate	\$ 721,825	\$ 1,397,380	\$ 2,512,222	\$ 1,129,594
Tangible Personal Property	100,716	277,956	162,141	305,216
Fire Protection	3,940			
Increases Through Exonerations	101	196	379	158
Current Year Franchise Taxes	73,613	174,567	290,687	
Prior Year Franchise Taxes	55,186	110,416	212,252	
Additional Billings	3,485	8,509	10,302	9,236
Unmined Coal - 2008 Taxes	3,382	6,547	16,736	5,290
Oil and Gas Property Taxes	34,155	66,121	169,025	53,422
Penalties	7,045	13,789	26,930	11,242
Adjusted to Sheriff's Receipt	3,251	10,818	10,617	17,822
Gross Chargeable to Sheriff	<u>1,006,699</u>	<u>2,066,299</u>	<u>3,411,291</u>	<u>1,531,980</u>
<u>Credits</u>				
Exonerations	8,068	15,716	31,629	12,890
Exonerations -Unmined Coal	20	40	101	32
Discounts	11,761	24,233	37,058	21,011
Delinquents:				
Real Estate	65,687	126,492	256,516	102,199
Tangible Personal Property	2,567	7,085	3,718	8,754
Franchise Taxes	34,117	72,488	157,664	
Total Credits	<u>122,220</u>	<u>246,054</u>	<u>486,686</u>	<u>144,886</u>
Taxes Collected	884,479	1,820,245	2,924,605	1,387,094
Less: Commissions (a)	<u>37,878</u>	<u>77,360</u>	<u>116,984</u>	<u>59,239</u>

(a) See Next Page.

The accompanying notes are an integral part of this financial statement.

WHITLEY COUNTY  
 LAWRENCE HODGE, FORMER SHERIFF  
 SHERIFF'S SETTLEMENT - 2008 TAXES  
 For The Period July 26, 2008 Through April 15, 2009  
 (Continued)

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Taxes Due	\$ 846,601	\$ 1,742,885	\$ 2,807,621	\$ 1,327,855
Taxes Paid	848,020	1,741,994	2,804,464	1,325,920
State Refund Received				51
Refunds (Current and Prior Year)	<u>1,076</u>	<u>2,009</u>	<u>4,144</u>	<u>1,986</u>
Due Districts or (Refunds Due Sheriff) as of Completion of Audit	<u>\$ (2,495)</u>	<u>\$ (1,118)</u>	<u>\$ (987)</u>	<u>\$ 0</u>

(a) Commissions:

10% on \$ 10,000  
 4.25% on \$ 4,081,818  
 4% on \$ 2,924,605

(b) Special Taxing Districts:

Library District \$ (1,134)  
 Health District 9  
 Soil District 7

Due Districts or

(Refund Due Sheriff) \$ (1,118)

(c) School Districts:

Whitley County Board of Education \$ (1,048)  
 Corbin Independent School 61

Due District or

(Refund Due Sheriff) \$ (987)

The accompanying notes are an integral part of this financial statement.

WHITLEY COUNTY  
NOTES TO FINANCIAL STATEMENT

April 15, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The Sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statement has been prepared on a modified cash basis of accounting. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Deposits

The former Whitley County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

WHITLEY COUNTY  
NOTES TO FINANCIAL STATEMENT  
April 15, 2009  
(Continued)

Note 2. Deposits (Continued)

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The former Whitley County Sheriff did not have a deposit policy for custodial credit risk but rather followed the requirements of KRS 41.240(4). As of April 15, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 3. Tax Collection Period

A. Property Taxes

The real and personal property tax assessments were levied as of January 1, 2008. Property taxes were billed to finance governmental services for the year ended June 30, 2009. Liens are effective when the tax bills become delinquent. The collection period for these assessments was November 3, 2008 through April 15, 2009. The beginning collection date is the date the first deposit of tax collections was made to the former Sheriff's official 2008 tax account. The former Sheriff's official receipt was dated October 29, 2008. It was signed by the former Sheriff, and certified by the County Clerk on February 19, 2009.

B. Unmined Coal Taxes

The tangible property tax assessments were levied as of January 1, 2008. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was February 19, 2009 through April 15, 2009.

Note 4. Interest Income

The former Whitley County Sheriff earned \$7,230 as interest income on 2008 taxes. The former Sheriff was required by statute to distribute the appropriate amount to the school district, and the remainder was to be used to operate the Sheriff's office. As of April 15, 2009, the former Sheriff owed \$508 in interest to the Whitley County School District, \$54 to the Corbin Independent School District, and \$1,250 in interest to his fee account.

Note 5. Sheriff's 10% Add-On Fee

The former Whitley County Sheriff collected \$36,294 of 10% add-on fees allowed by KRS 134.430(3). This amount was used to operate the Sheriff's office. As of April 15, 2009, the former Sheriff owed \$4,362 in 10% add-on fees to his fee account.

WHITLEY COUNTY  
NOTES TO FINANCIAL STATEMENT  
April 15, 2009  
(Continued)

Note 6. Unrefundable Duplicate Payments And Unexplained Receipts Should Be Escrowed

As of April 15, 2009, the former Sheriff had an unexplained surplus of \$11,850 in is 2008 tax account.

In the prior years, the former Sheriff deposited unrefundable duplicate payments and unexplained receipts in an interest-bearing account. The following are noted:

- As of July 26, 2008, the former Sheriff's escrow account included \$10,977 for un-refundable duplicate payments and unexplained receipts from tax collection periods prior to the 2003 tax collection period. During the 2008 tax collection period no disbursements were made from this surplus. As of April 15, 2009, the balance in the former Sheriff's escrow account relating to surplus prior to the 2003 collection period was \$10,977.
- As of July 26, 2008, the former Sheriff's escrow account included \$1,587 for un-refundable duplicate payments and unexplained receipts from 2003 tax collections. During the 2008 tax collection period no disbursements were made from this surplus. As of April 15, 2009, the balance in the former Sheriff's escrow account relating to the 2003 tax collection period was \$1,587.
- As of April July 26, 2008, the former Sheriff's escrow account included \$7,648 for un-refundable duplicate payments and unexplained receipts from 2004 tax collections and accumulated interest earned on the account balance. During the 2008 tax collection period, the former Sheriff made disbursements totaling \$503 made from this surplus. As of April 15, 2009 the balance of the former Sheriff's escrow account relating to the 2004 tax collection period was \$7,145.

KRS 393.090 states that after three years, if the funds have not been claimed, they are presumed abandoned, and abandoned funds are required to be sent to the Kentucky State Treasurer in accordance with KRS 393.110 along with a written report. Currently escrow funds relating to tax collection periods prior to 2003, 2003 and 2004 are due.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON  
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS





**CRIT LUALLEN**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Pat White, Whitley County Judge/Executive  
Honorable Lawrence Hodge, Former Whitley County Sheriff  
Honorable Colan Harrell, Whitley County Sheriff  
Members of the Whitley County Fiscal Court

**Report On Internal Control Over Financial Reporting And On  
Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards**

We were engaged to audit the former Whitley County Sheriff's Settlement - 2008 Taxes for the period July 26, 2008 through April 15, 2009, and have issued our report thereon dated March 25, 2011, wherein we disclaimed an opinion on the financial statement because the former Sheriff failed to maintain adequate accounting records and we were not provided management and legal representation letters. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

In planning and performing our audit, we considered the former Whitley County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the former Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the former Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as described in the accompanying comments and recommendations, we identified certain deficiencies in internal control over financial reporting that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying comments and recommendations as items 2008-02, 2008-04, 2008-05, 2008-06, and 2008-08 to be material weaknesses.



Report On Internal Control Over Financial Reporting And On  
Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards  
(Continued)

Internal Control Over Financial Reporting (Continued)

A significant deficiency is a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompanying comments and recommendations as items 2008-01, 2008-03, 2008-07, and 2008-09 to be significant deficiencies.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the former Whitley County Sheriff's Settlement - 2008 Taxes for the period July 26, 2008 through April 15, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations as items 2008-02, 2008-03, 2008-04, 2008-07, 2008-08, 2008-10, and 2008-11.

This report is intended solely for the information and use of management, the Whitley County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen  
Auditor of Public Accounts

March 25, 2011

## COMMENTS AND RECOMMENDATIONS



WHITLEY COUNTY  
LAWRENCE HODGE, FORMER SHERIFF  
COMMENTS AND RECOMMENDATIONS

For The Period July 26, 2008 Through April 15, 2009

**FINANCIAL STATEMENT FINDINGS:**

**2008-01    The Former Sheriff Should Not Have Deposited Fee Account Money In His Tax Account**

During our test of tax deposits, we determined that ten (10) checks totaling \$400 that should have been deposited to the former Sheriff's 2008 fee account were deposited to the 2008 Tax account. These checks were for serving papers and were dated between November 13, 2008 and December 9, 2008. They were included in a deposit to the 2008 tax account dated December 12, 2008. When the 2008 fee audit was completed this information was not provided to the auditors. These checks were not reported as 2008 fees. Since the 2008 fee audit has been completed, we have included these payments as 2009 fees.

We recommend that the former Sheriff transfer \$400 from his 2008 tax account to his 2009 fee account.

*Former Sheriff's Response: No response.*

**2008-02    The Former Sheriff Did Not Accurately Account For All Franchise Tax Collections And Distribute All Franchise Taxes By The Tenth Of The Month Following Collections**

During our review of franchise taxes for tax year 2008, we noted that fourteen (14) franchise tax bills totaling \$376,559 were collected but were not reported and paid to the taxing districts by the tenth of the following month as required by KRS 134.300 (repealed and replaced with KRS 134.191). These franchise tax collections were paid to the taxing districts from five (5) to eight (8) months after the date of taxpayers' checks. The former Sheriff's copies of these paid tax bills were marked paid much later than the dates of the taxpayers' checks. During our review of franchise taxes for tax year 2007, we noted that ten (10) of these franchise bills totaling \$107,507 were paid and deposited to the 2007 tax account. However, these bills were shown as unpaid at that time by the Sheriff's office and were not reported and paid to the taxing districts until the 2008 tax collection period. Of this amount, \$98,093 was transferred from the 2007 tax account to the 2008 account, leaving \$9,414 in the 2007 tax account. Since these bills were reported on the 2008 monthly franchise tax reports and paid from the 2008 tax account, we counted them as unpaid for the 2007 tax collection period and have included them as paid bills for the 2008 tax audit period. As of the audit date, the additional \$9,414 left in the 2007 tax account had not been transferred to the 2008 tax account. In addition we noted:

- Four (4) paid franchise bills included penalties and sheriff's ten percent (10%) add-on fees of \$310 and \$341(See Comment 2008-9) respectively. The penalties were not reported at the correct amounts on the monthly franchise reports, requiring auditor adjustments. In addition, the ten percent (10%) sheriff's add-on fees were not paid to the former Sheriff's 2009 fee account and the former Sheriff did not collect interest on these franchise bills as required by KRS 131.183.
- Two (2) paid franchise bills included discounts totaling \$105 that were not properly reported on the monthly franchise tax reports, requiring auditor adjustments.

WHITLEY COUNTY  
 LAWRENCE HODGE, FORMER SHERIFF  
 COMMENTS AND RECOMMENDATIONS  
 For The Period July 26, 2008 Through April 15, 2009  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-02 The Former Sheriff Did Not Accurately Account For All Franchise Tax Collections And Distribute All Franchise Taxes By The Tenth Of The Month Following Collections  
 (Continued)

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- One (1) paid franchise bill incorrectly included county school taxes totaling \$2,747. A refund for this amount is due to the franchise corporation. A second franchise bill also incorrectly included county school taxes but was not paid. That bill was turned over to the county clerk as delinquent and we have informed the county clerk of this error.
- One (1) 2005 franchise bill totaling \$684 that was collected and included as a paid bill on the 2006 tax settlement was re-billed and collected again during the 2008 tax collection period. This payment was initially deposited to the 2009 fee account and then transferred to the 2008 tax account. A refund for this amount is due to the franchise corporation.

We recommend the former Sheriff transfer \$9,414 from his 2007 tax account to the 2008 tax account and refund overpayments of franchise bills.

*Former Sheriff's Response: No response.*

2008-03 The Former Sheriff's Office Did Not Properly Account For All Paid Tax Bills

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The Whitley County Sheriff's office early implemented House Bill 262 (now KRS 134.122) for the 2008 tax collection period. In accordance with KRS 134.122, the former Sheriff turned over the delinquent tax bills to the County Clerk's office after the close of business on April 15, 2009. The County Clerk's office advertised the delinquent bills and the tax sale was held on August 24, 2009. Prior to the sale date, one of the taxpayers, whose bill had been advertised as delinquent, provided proof to the County Clerk's office their 2008 tax bill had been paid to the former Sheriff's office during the discount collection period in the amount of \$230. Since this bill was not marked paid by the former Sheriff's office and was counted as delinquent when the bills were turned over to the County Clerk, these funds were not distributed by the former Sheriff's office to the taxing districts. On August 4, 2009, the former Sheriff's office paid \$230 to the County Clerk's office for this bill and it was included on the August 2009 delinquent tax reports to the taxing districts.

In addition, on January 28, 2009, another taxpayer was notified in writing by the County Attorney their 2000, 2004, 2007, and 2008 tax bills were delinquent. Since the former Sheriff was still collecting the 2008 taxes at that time, the taxpayer paid the 2008 amounts due to the former Sheriff's office and that bill was properly accounted for. 2000, 2004 and 2007 tax bills were handled in accordance with statutes that have since been replaced with new statutes, including KRS 134.122. Auditors verified the 2000 and 2007 tax bills were delinquent and the taxpayer was making partial payments on these bills to the county Clerk's office. However, the taxpayer provided proof to the County Clerk's office the 2004 tax bill was paid to the former Sheriff's office in the amount of \$504 during the month of January 2005.

WHITLEY COUNTY  
LAWRENCE HODGE, FORMER SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Period July 26, 2008 Through April 15, 2009  
(Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-03 The Former Sheriff's Office Did Not Properly Account For All Paid Tax Bills  
(Continued)

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This bill had not been marked paid and was not distributed by the former Sheriff's office to the taxing districts during the 2004 tax collection period. When the 2004 tax audit was completed, this bill was included as a delinquent bill and was turned over to the County Clerk in accordance with KRS 134.450 (2) & (3), subsequently repealed. KRS 134.450 (1), also subsequently repealed, required the Sheriff to sell all tax claims for which payment by the delinquent taxpayer had not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. KRS 134.450 (2) & (3) state if no responsible offer in the amount of the tax claim is received, the sheriff shall file the delinquent tax bills in the county clerk's office immediately upon completion of the tax sale.

On February 5, 2009, the Sheriff's office paid \$504 to the County Clerk's office from the Sheriff's escrow account for this bill. It was then included on County Clerk's February 2009 delinquent tax report and paid to the taxing districts.

As noted in previous audits, this has been a continuing problem of the former Sheriff's office. Also, the former Sheriff had a surplus of \$8,561, \$1,587, \$7,145 and \$11,850 for tax years 2002, 2003, 2004 and 2008. The former Sheriff had a deficit of \$15,984, \$54,444 and \$87,589 for tax years 2005, 2006 and 2007. The former Sheriff would be personally responsible for any additional tax bills erroneously turned over as delinquent for any tax year in a deficit or the additional amount in any tax year where the surplus would not be enough to cover the payment to taxing districts.

*Former Sheriff's Response: No response.*

2008-04 The Former Sheriff Did Not Properly Document Approval Of Waiver Of Penalties And Fees As Required By Statutes And Department Of Revenue Guidelines, And Granted Discounts On Tax Bills Paid After The Discount Period Had Ended

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During the 2008 tax collection period, the former Sheriff allowed numerous taxpayers to pay tax bills at the two percent (2%) discount rate after the discount period had ended and granted waivers or reductions of penalties, Sheriff's fees, and advertising costs to a significant number of taxpayers. Beginning with the collection period for the 2008 taxes, the former Sheriff's office started using a new computerized tax program that included both discounts and penalties on the same monthly reports. The discount collection period for regular tax bills ended November 30, 2008. However, monthly reports prepared for regular tax collections for December 2008, January 2009, February 2009, March 2009, and April 2009 all included discounts.

WHITLEY COUNTY  
LAWRENCE HODGE, FORMER SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Period July 26, 2008 Through April 15, 2009  
(Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-04 The Former Sheriff Did Not Properly Document Approval Of Waiver Of Penalties And Fees As Required By Statutes And Department Of Revenue Guidelines And Granted Discounts On Tax Bills Paid After The Discount Period Had Ended (Continued)

Beginning with December 2008, monthly reports for the collection of the regular tax bills included amounts collected at discount, face, and penalty period amounts. Auditors were able to obtain a breakdown of the regular tax collections for the month of January 2009 showing amounts collected at the discount period, face period, and five percent (5%) penalty period amounts. Although Reports for December 2008 and the months subsequent to January 2009 indicated that regular taxes were collected in the same manner, the former Sheriff's office could not provide auditors with such breakdowns for those months. We contacted the tax program vendor and tried to obtain these breakdowns from them but were unable to do so.

Without these breakdowns, auditors could not determine the reported amounts for taxes collected at the discount, face, and various penalty rates. Therefore, we could not test the accuracy of the discounts and penalties reported.

We tested daily receipts for the February 2, 2009 tax collections by tracing the cash and cancelled checks per deposit details to the amounts reported on the former Sheriff's daily check out sheet (daily tax collection journal). We found that three bills were collected at the twenty-one percent (21%) penalty period amount but were included on the monthly report at the five percent (5%) penalty period amount. The difference between the penalties collected and the penalties reported for these tax bill payments totaled \$48. Therefore, we expanded testing to two additional days. We found that on January 29, 2009, the former Sheriff's office reported one payment made at the discount period rate as though it was paid at the face period amount resulting in a difference of \$23. No additional exceptions relating to penalty collections were noted and we did not expand our testing any further.

Although the former Sheriff maintained signed forms for penalty waivers as required by Department of Revenue Guidelines, he did not make any determination as to whether any adjustments had been made in the prior five years as is also required by those Guidelines. If the property owner had a waiver in the previous five years, then all documentation is to be sent to the Department of Revenue. The bookkeeper stated that waivers were granted to everyone who asked for them, if they had a "valid reason." Since these forms were not maintained for past years, the sheriff's office did not have any records to check to see if waivers had been previously granted and no inquiry was made concerning past waivers. In addition, the former Sheriff's office did not provide any documentation to auditors indicating that taxpayers granted discounts after the discount period had ended proved that they attempted to pay the bill during the discount period but for some reason the payment was returned.

*Former Sheriff's Response: No response.*

WHITLEY COUNTY  
LAWRENCE HODGE, FORMER SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Period July 26, 2008 Through April 15, 2009  
(Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-05 The Former Sheriff Did Not Reconcile Deposits To The Daily Collection Sheet Or A  
Daily Receipts Journal

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During the test of daily receipts, we noted that although the former Sheriff's office made daily deposits in a timely manner and maintained copies of daily collection sheets and paid tax bills, deposits were not always made intact and variances were not explained. In addition, the Sheriff did not maintain a cash receipts journal for tax collections. We tested the daily receipts for February 2, 2009 by tracing the amounts collected per the daily collection sheets generated by the Sheriff's computer system and copies of the paid tax bills for that date to the cash and checks per the deposit detail and found an overall unexplained variance. Cash deposited was \$167 less than the amount of cash collected per the daily collection sheet and paid tax bills. Checks deposited were \$32 more than the amounts listed on the daily collection sheet due to several immaterial recording differences. The \$32 difference in checks was the following:

- Three payments were made at the twenty-one percent (21%) penalty period amounts but posted to the daily collection sheets at the five percent (5%) penalty period amounts. The total additional penalties collected totaled \$48. No refunds were made to the taxpayers for these differences. Since the amounts from the daily collection sheets are totaled for each month to generate the amounts to be reported and paid to the taxing districts, these additional penalties would not have been included and paid to the taxing districts.
- Recorded amounts on the daily collection sheet included five (5) five dollar (\$5) second notice fees that were not paid per the taxpayers' checks. Since these amounts carry to a computer-generated monthly sheet for the second notice fees which the former sheriff used to determine the amounts to pay to his fee account, incorrect amounts would most likely have been paid.
- One tax payment included a five dollar (\$5) second notice fee that was not included on the daily collection sheet. This amount was likely not paid to the sheriff's fee account.
- Several checks were recorded at incorrect amounts resulting in an immaterial variance of \$4.

We were unable to determine why the cash deposited was \$167 less than the amounts per the daily collection sheet and the paid tax bills, and the bookkeeper could not explain this variance.

Due to the issues discussed above as well as prior year findings that the sheriff did not properly account for and distribute all tax payments received, we expanded our testing to include tax collections for January 29, 2009 and February 25, 2009. Cash deposited for the January 29, 2009 collections was \$60 less than the amounts per the daily collection sheet and paid tax bill totals. Checks deposited for this date were \$121 less than the recorded amounts. We were able to determine that one tax payment was recorded at the face period amount but was actually collected at the discount period amount. This accounted for \$23 of the variance in the checks deposited. We also were able to determine from the copies of paid tax bills and daily collection sheets that two tax payments (checks) totaling \$93 were not included in the daily deposit, leaving a variance of \$5, which is due primarily to several amounts being recorded on the daily collection sheet at incorrect amounts.

WHITLEY COUNTY  
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 COMMENTS AND RECOMMENDATIONS  
 For The Period July 26, 2008 Through April 15, 2009  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-05 The Former Sheriff Did Not Reconcile Deposits To The Daily Collection Sheet Or A  
Daily Receipts Journal (Continued)

Cash deposited for February 25, 2009 was \$44 more than the amounts recorded on the daily collection sheet and checks were \$2 less. The bookkeeper could not explain the variances for these days.

*Former Sheriff's Response: No response.*

2008-06 The Former Sheriff's Office Lacked Adequate Segregation Of Duties Over Accounting  
Functions

A lack of adequate segregation of duties exists over all accounting functions. During review of internal controls, we noted that the former Sheriff's former bookkeeper collected tax payments, prepared deposits, and prepared daily tax collection journals. The former bookkeeper also prepared the monthly reports, prepared and mailed payments to the taxing districts, and prepared monthly bank reconciliations. Although she did not sign any, the bookkeeper also had the authority to sign checks for which dual signatures were not required. The former Sheriff did not provide strong oversight or compensating controls to offset this.

Because a lack of adequate segregation of duties existed and because the former Sheriff did not provide strong oversight over the office, the following occurred:

- The Former Sheriff Deposited Fee Account Money into the Tax Account.
- The Former Sheriff Did Not Accurately Account For And Distribute All Franchise Taxes by the Tenth of the Month Following Collection.
- The Former Sheriff Turned A Bill Over To The County Clerk That Was Not Delinquent.
- The Former Sheriff Did Not Maintain Proper Documentation For Waiver of Penalties.
- The Former Sheriff Allowed Discounts on Tax Bills Paid After the Discount Period Without Reasonable Cause.
- The Former Sheriff Did Not Distribute Proper Amounts For Interest To The School Districts And His Fee Accounts.
- The Former Sheriff Did Not Reconcile Deposits To Daily Collection Sheet Totals.
- The Former Sheriff Loaned Money To The Fee Account From the Tax Account.
- The Former Sheriff Had An Unexplained Surplus of \$11,850 In His 2008 Tax Account.

A segregation of duties over various accounting functions, such as opening mail, collecting cash, preparing bank deposits, writing checks, reconciling bank records to the tax collection records and preparing monthly reports or the implementation of compensating controls, when needed because the number of staff is limited, is essential for providing protection from asset misappropriation and/or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

WHITLEY COUNTY  
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 COMMENTS AND RECOMMENDATIONS  
 For The Period July 26, 2008 Through April 15, 2009  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-06 The Former Sheriff's Office Lacked Adequate Segregation Of Duties Over Accounting Functions (Continued)

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*Former Sheriff's Response: No response.*

2008-07 The Former Sheriff Did Not Distribute The Proper Amounts Of Interest Earned On Tax Collections To The School Districts And His Fee Account

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We noted that although interest payments were made to the school districts and fee accounts, not all interest earned was distributed in accordance with KRS 134.140 (3) (b) and KRS 134.300 (repealed and replaced with KRS 134.191). Interest earned on checking account deposits for October, 2008 and subsequent to April 30, 2009, was not distributed to the school districts or the former Sheriff's Fee account. In addition, the former Sheriff invested tax deposits in Certificates of Deposit that were cashed as needed to pay amounts due to the taxing districts. Interest earned on the certificates of deposit was direct deposited by the bank to the former Sheriff's 2008 tax account. On December 29, 2008, the bank direct deposited \$1,644 of interest earned on a certificate of deposit to the former Sheriff's 2008 tax account. When the monthly interest for December 2008 was paid to the school districts and fee account, this interest payment was not included in the distribution.

Based on computation of interest due to the school districts and fee accounts, the former Sheriff owes an additional \$508 to the Whitley County School Board, \$54 to the Corbin Independent Schools District, and \$1,250 to his 2009 fee account.

We recommend the former Sheriff pay the amounts due to each of the school districts and his 2009 fee account.

*Former Sheriff's Response: No response.*

2008-08 The Former Sheriff Should Not Have Loaned Money To The Fee Account From The Tax Account

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The former Sheriff engaged in the practice of loaning money from the tax account to the fee account. On December 31, 2008, the former sheriff issued a check in the amount of \$49,200 to his 2008 fee account as an advance on December 2008 tax commissions. This check cleared the 2008 tax account on January 16, 2009. Although the check indicated this transfer was an advance on the tax commissions, total December tax commissions due the 2008 fee account were transferred on January 7, 2009. On February 10, 2009 \$49,200 was transferred back to the 2008 tax account from the 2008 fee account.

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COMMENTS AND RECOMMENDATIONS  
For The Period July 26, 2008 Through April 15, 2009  
(Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-08 The Former Sheriff Should Not Have Loaned Money To The Fee Account From The Tax Account (Continued)

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KRS 134.170(3) (since repealed) states, "Other than for investments and expenditures permitted by KRS 134.140, the Sheriff shall not apply or use any money received by him for any purpose other than that for which the money was paid or collected." Additionally, KRS 134.300 (repealed and replaced with KRS 134.191) requires tax collections to be reported and paid to the taxing districts by the tenth (10<sup>th</sup>) of the following month. Only the commissions allowable to the Sheriff and such other fees as were due should have been transferred to the fee account.

*Former Sheriff's Response: No response.*

2008-09 The Former Sheriff Did Not Accurately Account For The Ten Percent (10%) Sheriff's Add-On Fees

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In addition to the ten percent (10%) Sheriff's add-on fees collected on franchise bills (comment 2008-02) the former Sheriff did not account for and pay the proper amounts due to his 2009 fee account for add-on fees collected on gas and omitted gas bills.

For the 2008 tax collection period, the former Sheriff began using a new computerized tax collection system that separately accounted for the ten percent (10%) Sheriff's add-on fees. Whenever a tax bill was entered into the system as paid at the ten percent (10%) penalty period amount, this system computed the 10% add-on fees and generated a monthly report from which the former Sheriff determined the amount to pay to his fee account. We compared the totals per each of these monthly reports to the amounts paid to the former Sheriff's 2009 fee account and determined the former Sheriff paid the amounts due per reports. However, we determined the monthly reports generated included only the amounts collected on the regular tax bills. They did not include the add-on fees paid on the franchise, gas, and omitted gas bills. We then reviewed each available daily collection sheet for franchise, gas, omitted gas, and oil bills collected during the 10% penalty collection period. We determined the former Sheriff collected at least \$4,362 of add-on fees on franchise, gas, and omitted gas bills that were not included on the monthly reports and, therefore, were not paid to the former Sheriff's fee account.

We recommend the former Sheriff transfer \$4,362 from the 2008 tax account to the 2009 fee account.

*Former Sheriff's Response: No response.*

WHITLEY COUNTY  
 LAWRENCE HODGE, FORMER SHERIFF  
 COMMENTS AND RECOMMENDATIONS  
 For The Period July 26, 2008 Through April 15, 2009  
 (Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-10 The Former Sheriff Should Not Have Collected Taxes Before Signing The Official Receipt

Based on our review of the former Sheriff's bank statements, the former Sheriff's office made its first deposit for regular 2008 tax collections on November 3, 2008. Monthly tax reports were prepared for November and December 2008 and January 2009. However, the former Sheriff did not sign the official receipt for regular tax bills until February 19, 2009, almost four months after the tax collections began.

KRS 134.140 (2) (repealed and replaced with KRS 134.119) states, "The sheriff shall not receive or receipt any taxes until the tax bills have been delivered to him by the county clerk (mailed by the Sheriff to the taxpayer as required in KRS 134.119 (3) (a)), as provided in KRS 133.220 and 133.230." KRS 133.220 (1) and (2) state, "The Department of Revenue annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls. After receiving the forms, the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180." KRS 133.220 (3) states, "Tax bills prepared in accordance with the certification of the Department of Revenue shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the County Judge/Executive in the manner required by law for recording the official bond of the sheriff."

*Former Sheriff's Response: No response.*

2008-11 The Former Sheriff Should Settle 2008 Taxes

Based on available records, the former Sheriff owes the following known amounts to the taxing districts for 2008 taxes:

Health	\$	9
Soil District		7
Corbin Independent School		61

The following known refunds are due to the former Sheriff from the taxing districts:

Whitley County	\$	2,495
Whitley County School Board		1,048
Library district		1,134

WHITLEY COUNTY  
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For The Period July 26, 2008 Through April 15, 2009  
(Continued)

**FINANCIAL STATEMENT FINDINGS (Continued):**

2008-11 The Former Sheriff Should Settle 2008 Taxes (Continued)

We recommend the former Sheriff obtain the known refunds from the appropriate districts and then pay the known additional taxes due to the taxing districts.

*Former Sheriff's Response: No response.*

